

REMARKS

The Examiner has rejected claims 1, 4-6 and 9-16 under 35 U.S.C. 102(a) as being anticipated by International Patent Application No. WO 01/33852 to OPENTV. The Examiner has further rejected claims 2, 3 and 8 under 35 U.S.C. 103(a) as being unpatentable over OPENTV in view of U.S. patent 5,768,539 to Metz et al.

The OPENTV reference discloses a system and method for recording pushed interactive data streams of a program. A pushed data stream is broadcast to a receiving station. The data stream includes one or more data objects. The data stream may also reference to live data objects which are intended for immediate consumption and become obsolete thereafter. The data stream may include a file table and object properties corresponding to the data objects. When the data stream is received by the receiving station, the individual data objects are extracted from the data stream. The data objects, accompanying object properties and the file table are then stored on a storage device. Data objects which are external to the data stream or to the program (e.g., data objects from other carousels) are retrieved and are also stored. Live data objects are not stored, but references to these data objects are stored, so that when the program is replayed, current versions of the referenced live data objects can be used. A program not being recorded may contain data objects which are flagged to be cached which are recorded automatically. Consequently, other

programs may subsequently access them from the recording when they are played.

As noted in MPEP §2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Examiner has indicated that OPENTV discloses a method and use of transmitting interactive television, whereby at least an interactive television application is transmitted inside application-modules in a broadcast stream, said method comprising the step of signaling storage related information of said modules in, said broadcast stream [p. 4, 32-35; p. 5, 26 -27, pp. 6-7, lines 37-5]. The Examiner has further indicated that OPENTV discloses "said step of signaling storage related information comprises signaling of categories stating whether said modules are mandatory [if program is to be played immediately, the data objects are deemed necessary, p. 4, 31-32; flags are inserted identifying objects that need to be cached, p. 5, line 25-26], optional [programs can be stored at the option of the user, p. 6, 38, p. 8, 26-27; modules categorized as within a validity range are available, p. 8, 5-7], or forbidden [live data objects are not

stored, p. 3, line 20; objects categorized as outside their validity range are unavailable for storage, p. 8, 5-7] to record."

Applicants submit that the Examiner is mistaken. In particular, while the Examiner states OPENTV discloses "if program is to be played immediately, the data objects are deemed necessary, p. 4, 31-32", OPENTV actually states "If the program is to be played immediately, the data objects are used as necessary in the program. If the program is to be stored, the data objects are stored as a set of files on storage device 16." Applicants submit that there is no indication that any particular data object is needed when the program is to be stored. Further, as specifically stated by OPENTV, the data objects are stored as a set of files, there being no indication of whether any of the data files are deemed necessary, optional or forbidden.

While OPENTV states "flags can be inserted to identify particular data objects which need to be cached by the receiver", caching of data objects is done when the receiver is immediately playing the program. There is no disclosure that any particular data object is needed when the program is to be stored.

While, as noted by the Examiner OPENTV discloses "programs can be stored at the option of the user, p. 6, 38, p. 8, 26-27; modules categorized as within a validity range are available, p. 8, 5-7", Applicants stress that there is no disclosure or suggestion of transmitting of storage related information wherein "said storage related information comprises: categories indicating whether each said modules is alternatively mandatory for recording,

optional for recording or forbidden to be recorded at the receiver".

While, as noted by the Examiner, OPENTV discloses **"live data objects are not stored, p. 3, line 20; objects categorized as outside their validity range are unavailable for storage, p. 8, 5-7"**, Applicants stress that there is no disclosure or suggestion of including storage related information in the broadcast stream and "said storage related information comprises: categories indicating whether each said modules is alternatively mandatory for recording, optional for recording or forbidden to be recorded at the receiver".

The object of the subject invention is to identify, when a user desires to record the broadcast stream, which applications in the broadcast stream need to be recorded (mandatory), which applications would be desirable to be recorded (optional) and which application are not to be recorded (forbidden to record). There is no authorizing of a particular receiver and the prevention of the receiver from executing the programs if the receiver is not authorized. Rather, the categorizing of the files is applicable to all receivers having a recording capability. For example, some files must be recorded in order for the application to run. These files would then be designated "mandatory". Further, other files should not be recorded, e.g., they requires current information. These files would then be designated "forbidden to record". Finally, there may be files which if recorded yield additional, optional features. These files would be designated "optional".

Hence, the subject invention categorizes the modules for the benefit of all receivers have a recording capability, while OPENTV restricts the availability of the information to certain select receivers which are authorized.

The Metz et al. patent discloses downloading applications software through a broadcast channel, which arguably discloses using DSMCC modules to transmit application data. However, Applicants submit that Metz et al. does not supply that which is missing from OPENTV, i.e., including storage related information in the broadcast stream, and that the storage related information comprises categories stating whether said modules are mandatory, optional or forbidden to record.

In view of the above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicants believes that this application, containing claims 1-6 and 8-16, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by /Edward W. Goodman/
Edward W. Goodman, Reg. 28,613
Attorney
Tel.: 914-333-9611